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Citizens Union
(New York, N.Y.)

Memorandum concerning the proposed relocation...

[New York]

[1916?]

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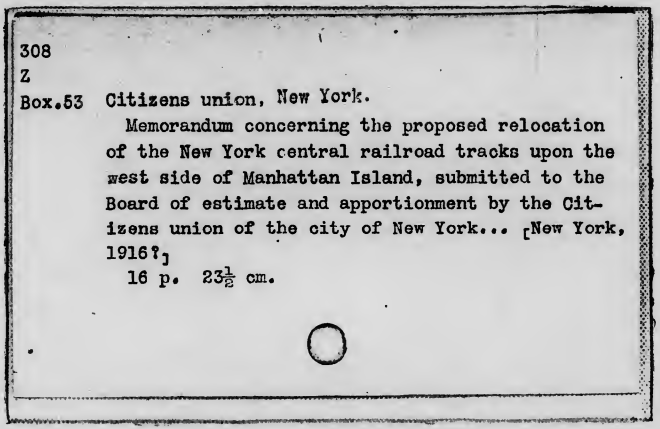

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Memorandum concerning the proposed relocation of the New York central railroad tracks upon the west side of Manhattan Island, submitted to the Board of estimate and apportionment by the Citizens union of the city of New York... [New York, 1916?]
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Memorandum Concerning

THE

Proposed Relocation of the New York Central Railroad Tracks upon the West Side of Manhattan Island

SUBMITTED TO THE

Board of Estimate and Apportionment

BY THE

Citizens Union of the City of New York

41 PARK ROW, NEW YORK

To the Board of Estimate and Apportionment
of the City of New York:

GENTLEMEN:

The Report of your Committee on Port and Terminal Facilities, dated April 22nd, 1916, recognizes and accepts the following principles as governing a proper solution of this problem:

1. Preservation of the waterfront.
2. The park systems through which the railroad now operates should be preserved and completed.
3. The solution of this special problem should be made to harmonize with and form a part of the solution of the general port and terminal problem of the City.
4. The City should receive full value for all property which it alienates.
5. The operation of the railroad at grade should cease.
6. There should be a substitution of electricity for steam as motive power.
7. The railroad should furnish local and suburban passenger service on the West Side.

All of these are accepted in principle in the report; yet only two are actually carried out. They are the following:

(5) The elimination of the operation of the railroad at grade;
(6) The substitution of electricity for steam as a motive power.

1. THE PRESERVATION OF THE WATERFRONT.

In the report of the Committee (p. 28) it is stated:

> "These advantages will be secured to the City of New York without the expenditure of City funds and without the surrender of any of the City's waterfront to the exclusive use of the railroad company."

(a) As to Manhattan Valley: It cannot be said with accuracy that the City has preserved the waterfront at Manhattanville. On the contrary, from a point at 135th Street to 141st Street, upon the land under water west of the present bulkhead line, a strip of land about 1,700 feet long and about 200 feet wide is to be granted perpetually to the railroad company for the reception of freight, including a two track line extending from the yard and running along the bulkhead line. Only 24 feet of this strip is subjected to an easement for the public benefit. This will permit freighters and barges to anchor alongside the marginal way and load and unload. This not only sacrifices the waterfront at this point, but it will change the entire character of this section of the City. It will make this point a shipping center with barges and freighters along the waterfront. The residential character of the district will be irretrievably damaged.

The proposal is also inconsistent with the statement at the top of page 12 of the report that "pier and float bridges have been eliminated in order to protect the waterfront against further commercialization." Combined with the large freight yard proposed which, according to the report, is to remain uncovered, this certainly fails to carry out the purpose of your Committee to restrict the commercialization of this section of the City.

(b) As to the Waterfront from 72nd Street to 59th Street: It appears from the land and rights maps that the railroad company today only owns to 13th Avenue. It is proposed to convey to the railroad company in fee the land marked in purple and yellow on Sheet No. 18 to the exterior line of lands granted to the City, that is, to the State line. This grant carries with it a grant to the railroad of the riparian rights, and so long as the franchise of the railroad company continues, completely destroys all access on the part of the City to this portion of the waterfront. This is directly inconsistent with the statement that "the sale of the fee to the railroad company will not in any manner change the exact existing conditions nor will it prejudice the rights of the City."

2. THE PARK SYSTEM THROUGH WHICH THE RAILROAD NOW OPERATES SHOULD BE PRESERVED AND COMPLETED.

(a) As to the easements for conduits: The location of

these conduits, their depth and their accessibility should be taken account of in connection with the park topography in this section; and they should not be permitted except as approved by the Park Department.

(b) As to the covering of the tracks: The main report does not provide for the reservation of the right to the City to cover the tracks through and along the entire line of the railroad through Inwood Park. This right is essential to the complete park development, and we understand from the supplemental report, will be reserved in the contract.

(c) The covering of the tracks through Fort Washington Park: Here too the City should reserve the right to cover. At the top of page 8 of its report, the committee states that it disapproves of a proposed tunnel for the reason that the construction of such a tunnel "would inevitably destroy a large number of trees, upon the existence of which much of the beauty of Fort Washington Park depends." The preservation of the beauty of Fort Washington Park necessarily involves the roofing over of the railroad at various points, and this right should be reserved to the City.

(d) From Fort Washington Park to 151st Street: Here the report recognizes that the right should be reserved to cover the tracks in the future, together with the right to construct a city street over the right of way with water mains, etc. (see p. 10 of the report). (We understand from the Committee's Report No. 2 that this right will be reserved.)

(e) From 151st Street to 135th Street: The plans not only propose to increase the main lines from four to six tracks, but it is proposed further to increase the main line to eight tracks beginning at 153rd Street and running south, and to increase the number of tracks for purposes of a freight yard to thirty-seven at 139th Street. The Committee reports that it does not intend to cover this yard, but "it is proposed to cover the major portion of the *main line tracks* between 151st Street and 135th Street and to extend Riverside Park to the westerly edge of the roof. This will provide an effective screen." To realize that the so-called screen is no screen at all, it is only necessary to take one of the buses that run along Riverside Drive at this point, and at the curve at the north end of the viaduct look down upon the yard as it will appear with the increased trackage, or go to the fourth or fifth story of an apart-

ment house on this Drive and it will be clearly seen that this enormous yard will spread out and fill the whole foreground. If there be added the feature of landing of barges and lighters along the marginal way, with the noise of the constant shifting and shunting of trains, it will become apparent that the present plan contemplates the *creation of a permanent eye-sore and noise nuisance in this section of the City.* This yard is to be one-half mile long and approximately 550 feet wide from the existing retaining wall of Riverside Park. To sign a contract with the railroad company permitting the creation of this yard without provision for covering is to increase and perpetuate a nuisance in this section of the City—a nuisance that will destroy for all time its residential character.

Even the restrictions proposed in the exceedingly unsatisfactory 1913 report are omitted from this report. It will be recalled that in the 1913 report (pp. 13-14) it was specifically recommended that "plans for any structure to extend more than 16 feet above the tracks in this area should be submitted to the Art Commission of the City of New York for approval, and that warehouses, shops and other buildings more than one ordinary story in height should not be permitted," and it was further reported that "your Committee has insisted, and the railroad company has agreed, that it will stipulate not to use the proposed freight yard at this point for the delivery or shipment of cattle."

Whether the tracks are covered or not, the contract should clearly provide that there shall be no nuisance either of noise or smell or unsightly structures at this point. The present maps show only a few sheds in this yard. It is to be mostly covered by tracks. The City should reserve the right to veto any structures the railroad may propose, and all structures should be submitted to the Art Commission for approval.

(f) The absence of provision for fill: The plans disclose that for a distance of nearly a mile there will be a wall on the easterly side of the main tracks made of steel and concrete from eight or ten feet to twenty feet in height, and that between this wall and the park slope will be large spaces for which no immediate provision for fill is made. A dotted line on the profiles indicates the right of the City either to fill in or roof over at this point, but until this fill is made this solid steel structure will be an eye-sore to the entire neighborhood. The statement of the items of expense to the City for the carrying out of the whole plan nowhere mentions *the ultimate cost to the City of making this fill and covering.* Certainly if the fill is to be made, it should be made *now* when, by reason of the excavating necessarily involved at other points of the improvement, there will be available material which can be used here for the purpose. If all such material is to be used in other ways, the City should make it plain at this time what is to be done with it, and how what remains to be done in the way of fill is to be done, and its cost.

The statement in the report of the Committee that the improvement along the entire line will be completed "without the expenditure of city funds and without the surrender of any of the City's waterfront to the exclusive use of the railroad company" is hardly an accurate statement, if it be taken into account that this section cannot be completed and made into a part of the park without the roofing over of the structure and the filling in between the park slope and the steel wall at the expense of the City.

(g) As to the improvement along Riverside Park from 129th Street to 72nd Street: It is quite obvious that no mere inspection of the plans and of the report will determine whether or not the proposed improvement will look like a gigantic mole-gallery or whether it will look like a completed landscape. There is but one safe way of securing the City upon this score,—that is, for the Park Department, first, to prepare a topographical plan to complete the landscape effect of this park, then to make the railroad plans conform to the park plan, and then to make provision in the contract for such increase in the strength of the steel structure as will at all points be adequate to support the fill necessary for the completion of the landscape plan. We urge, therefore, that no plan receive the approval of the Board of Estimate and Apportionment until the Park Department shall have made its report fully covering these phases of the problem. The City has the right to the expert opinion of its own landscape architects.

The public is entitled to know also whether the Park Department regards as adequate the allowance (which the railroad company is to make) of $300,000 for completing the park. In this connection it is to be borne in mind that the park is *not* at this time to be made complete to the water's edge, and that outside of the railroad line there is nothing now to be done except to leave a sharp and unfinished rough bank running down to the water. It ought to be kept carefully in mind *that the ultimate expense of completion will be a charge against the City.*

3. THE SOLUTION OF THIS SPECIAL PROBLEM SHOULD BE MADE TO HARMONIZE WITH AND FORM A PART OF THE SOLUTION OF THE GENERAL PORT AND TERMINAL PROBLEM OF THE CITY.

This principle is recognized by the provision on the plans and profies for two tracks to the west of the proposed New York Central tracks upon the marginal way below 59th Street.

(a) As to Use of Marginal Way Below 59th Street: It is contemplated that the two tracks along the marginal way shall belong to the City and that they shall be reserved for such other roads as may hereafter apply for their use.

We are informed, however, that between 38th and 40th Streets, in order to accommodate the new City piers, it is proposed to reduce the width of the marginal way from one hundred and fifty to fifty feet. Of this fifty feet, the New York Central Railroad will occupy twenty-eight feet, leaving but twenty-two feet to accommodate additional trackage, which will be inadequate unless the tracks to be now erected by the Central are incorporated in the future distributing system. Before the adoption of any plan, it is essential that provision be made at this point for the tracks of a future joint railroad.

Although the Committee states in its Report No. 2 (page 2) that the Company concedes to the City the right to switch from such a railroad across the Company's line to reach property on the easterly side, it must be remembered that from the 30th Street Yard to the proposed Canal Street terminal the New York Central will operate over private property and will practically split in two the blocks between Tenth and Eleventh Avenues and West and Washington Streets. With the railroad company owning property on both sides of its right of way, it is quite evident that future access to this section by other roads for terminal facilities is effectively blocked. The use of tracks on the marginal way would necessarily be confined to the shifting of freight from pier to pier with a very limited opportunity for the use of terminal warehouses to the eastward. This means a *virtual monopoly* by the New York Central Railroad of terminal facilities in this section, *contrary to the policy of the City.*

We have been confirmed in this conclusion by the State of New Jersey Board of Commerce and Navigation. This is an official state body having complete jurisdiction over the port and waterfront

development of that State and is naturally vitally interested in New York City's solution of its West Side problem. J. Spencer Smith, President of that Board, in a letter dated June 10, 1916, states:

> "The private right-of-way and the elevated tracks of the proposed New York Central settlement plans will so cut up the district between the Ninth Avenue Elevated railroad and West Street, that there will not be room for the establishment of facilities for the other roads, and the reservation of the right to the City to cross within the lines of streets either below or at grade is, in my judgment, of no importance or value whatever. I cannot see the purpose of any such reservation, unless it is thought possible to occupy these cross streets at grade, or at the level of the elevated road for trackage for the loading and unloading of freight cars. I do not think that that is at all feasible nor is there enough room to do any business of any account on the cross streets themselves.
>
> "* * * * * * * *; my judgment is decidedly that if this proposed settlement with the New York Central is entered into it will preclude the possibility of the establishment of terminals for general railroad use in the section north of Canal Street, and that once the plan is agreed on by the City to do what the present plans propose the door will be shut for any general railroad terminal organization in the district referred to."

We are convinced that it is in the best interest of the City and necessary to the ultimate solution of its port problem that the line of the New York Central Railroad *follow the marginal way below 30th Street,* with the right reserved of future *joint operation by all the railroads below 59th Street.*

The Committee on Terminal Improvements, in its Report on the 1913 plan, recognized the desirability of providing for the general use by the New York Central and the Jersey roads of an elevated line south of 30th Street. That report stated (on pages 38 and 39) that the Company had agreed to give the City an option, good until November 1, 1913, to purchase its perpetual and exclusive franchise for tracks in streets south of 30th Street upon two conditions:

> That the City pay a consideration, which the Company had named and the Committee considered fair and reasonable.
>
> That the City, on the exercise of such option, construct or cause to be constructed suitable rail facilities south of 30th Street which should be open to the use of the New York Central and all other roads upon equal terms.

If the Company were willing to make such an arrangement in 1913, it should now be willing to grant reservations which will permit the establishment in the future of a general freight terminal road in this section.

This change in the plan would also be financially advantageous to the City. Under the terms contemplated in the proposed 1916 settlement, the City is to pay the Railroad Company 33⅓ per cent. of the value of the fee where the Railroad Company gives up its present surface occupation, and the Company is to pay the City 17½ per cent. of the value of the fee where it secures permanent overhead rights from the City. On this basis, the City is to pay the Railroad Company for its surrender of surface rights in streets south of 31st Street $831,157 and the Railroad Company is to pay the City for the overhead rights it obtains $197,801. The difference in favor of the railroad company is $633,356. If the tracks were to be placed upon the marginal way, instead of through private property, the City would gain, assuming the same number of square feet, considerably over $400,000.

(b) As to a Freight Tunnel Between New Jersey and Manhattan: It has been stated during the discussion of this proposed plan that the New Jersey roads will never find it practical to bring freight to Manhattan by tunnel owing to the immense cost involved in acquiring property for classification yards and the impossibility of bringing a tunnel to grade without blocking a great number of streets.

At the present time all freight consigned to Manhattan over New Jersey roads is classified in New Jersey, and then sent across the river on car floats. About 2,000 cars are sent over daily with freight for Manhattan. That the freight from the New Jersey roads intended for Manhattan, if brought to Manhattan by tunnel, must be classified on the Manhattan side, is disproved by the fact that at the present time all of it is classified on the Jersey side. It would be just as feasible to classify in New Jersey, freight brought to a downtown terminal by rail, as it will be for the New York Central to classify the freight it will distribute through its Canal Street Terminal at 30th Street or 59th Street.

The objection that the grade required to bring trains from a tunnel under the river to an elevated structure is prohibitive does not seem to be well founded. The Pennsylvania road approaches its 32nd street passenger terminal on a grade of 1.92 percentum.

The weight of an ordinary passenger train operated into this station over this grade, drawn by heavy motors, would about equal 25 freight cars with an average load of from 8 to 10 tons. This is the average load on cars now brought to Manhattan on car floats of from 12 to 16 cars. It is not likely that trains of classified freight would exceed these units.

Consideration should also be given to the possibility of a tunnel from New Jersey, reaching Manhattan above 72nd Street, and brought to the surface and to an elevated level by an approach along the easterly side of the 60th Street Yard of the New York Central Such an arrangement would make possible an easy approach to a connection with the proposed tracks of the New York Central, where they leave the 60th Street Yard.

4. THE CITY SHOULD RECEIVE FULL VALUE FOR ALL PROPERTY WHICH IT ALIENATES.

The railroad acquires perpetual easements to accommodate its proposed increased trackage through Inwood Hill, Riverside Park, and at other points, at the very low rate of 17½ per cent. of the fee value of the land to be occupied.

It is assumed throughout the plan that because the railroad has a franchise to operate, it has the right as a matter of course to operate more than its present trackage. But this right relates only to such property as it owns in fee. The City is therefore not only giving the right to buy an easement in park lands, *but it is also giving the railroad additional franchise facilities.* For this the railroad is paying nothing except 17½ per cent. of the fee value of the property.

By acquiring title to the property and running under cover the railroad will also obviate further payment of any franchise tax, because by this arrangement it will hereafter be running upon its own property in a tunnel (see People ex rel. Railroad Company vs. Tax Commissions, 203 N. Y. 119).

Nowhere in the report does it appear that any consideration whatever is to be paid to the City for the additional valuable franchise granted to the railroad. If the railroad were to make separate application to the City for a franchise covering the additional rights now proposed to be granted, how could the City in its present financial condition justify such a grant without requiring fair compensation, and if through the agreement with the City the railroad

is avoiding the payment of a franchise tax to the State upon so much of its railroad as will be operated upon land acquired in fee from the City, is it not fair that the City should receive by way of a rental at least an amount equivalent to the franchise tax which would be paid to the State?

We respectfully urge that before an agreement is entered into, your Board obtain reports upon this important phase of the problem from your Bureau of Franchises and the Department of Taxes and Assessments.

Not only should the value of the additional franchise rights receive recognition, but provision should be made for revaluation at fixed periods.

The policy of the City in dealing with railway companies and franchises granted to railway companies and in fixing financial terms is very clearly indicated by the agreements with the New York & Harlem Railroad and its lessee, the New York Central, for the Grand Central improvement, authorized June 19, 1903; the supplemental agreement with the same company authorized December 4, 1903; the certificate to the New York Connecting Railroad, dated March 8, 1907; the certificate to the Pennsylvania, New York & Long Island Railroad Company, dated October 9, 1902; the certificate to the Manhattan Railway Company, dated March 19, 1913; and the certificate to the Interborough Rapid Transit Company for the extension of elevated lines on Webster Avenue, 8th Avenue, the 162nd Street connection and the Queensboro Bridge line.

In order to permit the New York & Harlem Railroad Company and its lessee, the New York Central & Hudson River Railroad Company, to make the Grand Central improvement, (see minutes of the Board of Estimate and Apportionment, pages 1621 to 1629, 1903) in accordance with the provisions of Chapter 425 of the Laws of 1903, involving the depression of its tracks and the operation of its trains otherwise than by steam locomotives, the City granted to the Company, during the term of its corporate existence, certain sub-surface rights under Park Avenue from 45th to 56th Street, between 56th and 57th Streets and under 45th, 46th, 47th, 48th, 49th and 50th Streets. This was upon express condition that the Company *should not obtain a fee* to the soil of the portions of the streets and that the City should not be prevented from occupying or using, or permitting others to occupy or use, any part of the soil of streets and avenues underneath the tracks and structures of the company as shown on the plans and profiles which formed part of the agreement. The Company agreed to bear the entire expense of depressing all its then existing tracks between 57th and 42nd

Streets and Madison and Lexington Avenues, and all the expense of constructing viaducts and bridges from 46th to 56th Street, inclusive, over the tracks (except the expense of constructing so much of the bridge required to carry 45th Street over the tracks as should be in excess of fifty feet in width) in excess of $600,000. It also agreed to pay the City of New York $25,000 per annum.

In a supplemental agreement with the same company, (Minutes of the Board of Estimate and Apportionment, pages 1621 to 1629, 1903) it was also provided that the company should not obtain a fee in or to the soil of the portions of the streets and that the City should not be prevented from occupying or using, or permitting others to occupy or use, any part of the soil of streets and avenues underneath the tracks and structures of the company.

In the certificate to the New York Connecting Railroad (Minutes of the Board of Estimate and Apportionment, pages 717 to 742, 1907) while the company was authorized to lay down, construct and operate a railroad over the route set forth in the certificate, in the Boroughs of Brooklyn and Queens, over the East River, across Ward's Island, Little Hell Gate, Randall's Island, Bronx Kills, and certain streets and avenues in the borough of The Bronx, the company was given no right to construct or operate a railroad upon the surface of any street. The company agreed to pay *annual rentals* for the occupation of ground on Ward's and Randall's Islands. For its rights on other public property, it is to pay $27,500 annually for the first ten years, $55,000 annually for the next fifteen years, and thereafter payments are to be re-adjusted at intervals of twenty-five years.

In the certificate to the Pennsylvania, New York & Long Island Railroad Company (Minutes of the Board of Aldermen, pages 608 to 625, 1902), the railroad is required to pay to the City for the rights and franchises obtained to construct its main line under the Hudson and East Rivers, for its rights under the docks and bulkheads of the City, and for its rights on or above streets or avenues, certain fixed rates per linear foot for the use of underground portions of streets; and for terminal facilities on portions of 32nd Street between 7th and 8th Avenues, and between 8th and 9th Avenues, the Company is required to make annual lump sum payments. The payments are to be re-adjusted at intervals of twenty-five years.

In the certificate to the Manhattan Railway Company for third tracking the Second, Third and Ninth Avenue elevated lines, dated March 13, 1913, the Company is given authority to lay an additional track on the Second, Third and Ninth Avenue Elevated lines, for a period of eighty-five years, subject to the right of *recapture* by the City after ten years. In event of recapture, payment is to be made therefor by the city in accordance with a schedule contained in the certificate. The amount to be paid by the City is gradually reduced until at the end of the period of eighty-five

years the ownership of the property passes to the City without further compensation. For the first period of twenty-five years the Company pays the City from the gross receipts of each station served by express trains a sum equal to two per centum of the excess of the gross receipts over the gross receipts of the same station for the year ending June 30, 1911. The rental is to be re-adjusted at intervals of twenty years.

In the certificate to the Interborough Rapid Transit Company for the extension of its elevated lines on Webster Avenue, Eighth Avenue, the 162nd Street connection and the Queensboro Bridge Line, provision is made for recapture by the City any time after ten years. The Company pays to the City as compensation for the franchise one-half of the net profits upon all elevated lines operated by the Interborough Company in excess of the average annual net profits of the existing Manhattan Railroad for the two years ending June 30, 1911, less the excess of such net profits after deducting therefrom the rental to be paid to the City for the additional tracks on the lines operated by the Interborough. The payments by the Company are to be re-adjusted if and when that Company ceases to operate these new roads in conjunction with the Manhattan railroad, and shall thereafter be re-adjusted at intervals of twenty years.

The proposed grant to the New York Central Railroad of the very valuable additional rights over the streets and avenues of the City of New York is the *first instance* in which the city administration has gone counter to the principles and policies upon which the foregoing grants were based.

7. LOCAL AND SUBURBAN PASSENGER SERVICE ON THE WEST SIDE.

The report of the Committee states (p. 9):

> "Another strong argument in favor of permitting the company to construct a six track main line is the desirability of providing tracks for passenger trains. The Company's legislative franchise under which the West Side tracks were built provided for the transportation of passengers as well as freight. As a matter of fact the Company still maintains a nominal passenger service between 30th Street and Spuyten Duyvil. The Committee thinks that a large extension of this passenger business will undoubtedly be desirable in the near future. It considers that the adjustment of main line trackage brought about by the settlement now under consideration must be final *and that if provisions for passenger accommodations is to be made at all over this line it should be made now as*

> *part of the proposed agreement with the railroad company.* * * * * The provision for passenger service was strongly urged upon the Board of Estimate by a number of civic organizations."

Yet the Committee does not report that the Railroad Company is willing to enter into an agreement making provision for passenger traffic. The Committee merely says:

> "It feels, however, that by providing for six main line tracks between 72nd Street and 177th Street the door is kept open for whatever plan may be worked out in the future for such a connection under proper conditions and restrictions."

Careful examination of the plans in detail reveals that not only is no provision whatever made for passenger stations or access to passenger stations, but that even existing passenger stations are to be removed. And when directly questioned upon this point the counsel for the New York Central Railroad admitted that there was no intention on the part of the railroad to agree now to furnish passenger facilities.

It may be that it is inadvisable to arrange for passenger traffic on the proposed lines. It may be advisable to make the line exclusively a freight line. But if so, the plan should be frankly recognized as granting greatly enlarged freight facilities, and the bargain made accordingly. There is no point in lugging in an illusory passenger argument to bolster up the reasonableness of the grant of enormously valuable privileges.

CONCLUSION.

We have carefully examined the supplemental report (No. 2) of the Committee on Port and Terminal Facilities, and the considerations presented in the foregoing (except as specifically mentioned) have not been met. We are advised that some of the points we have raised are now under consideration and it is quite likely that some of these points will be met before this brief is filed. So far as we have been able to ascertain, however, the large considerations of

(a) the potential monopoly of freight facilities contained in the grant and the failure to treat the plan as part of the port and terminal problems of the Port of New York,
(b) the considerations for the franchise grants to the railroad, and
(c) the nuisance of the Manhattanville Yard,

have all failed to receive at the hands of the Committee the attention we feel they deserve.

The citizens of New York, we believe, are desirous of securing the elimination of "Death Avenue" as a nuisance and the elimination of the operation of the railroad by steam at grade through Riverside Park. But we also believe that they are unwilling to accomplish these two results at the expense of sacrificing the great franchise interests of the City, of failing to meet the increasingly important problems of the Port of New York and of substituting a permanent nuisance in Manhattan Valley.

Respectfully submitted,

CITIZENS UNION OF THE CITY OF NEW YORK.

Special Committee on West Side Problem

JULIUS HENRY COHEN, *Chairman,*
ALBERT S. BARD,
ROBERT LOUIS HOGUET,
FRANK B. WILLIAMS.

June 26, 1916.

MSH 21235

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